



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2017–0018; 4500030115]

Endangered and Threatened Wildlife and Plants; 90-Day Finding for the Bone Cave

Harvestman

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to delist the Bone Cave harvestman as an endangered or threatened species under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petition presents substantial scientific or commercial information indicating that delisting the Bone Cave harvestman may be warranted. Therefore, with the publication of this document, we announce that we plan to initiate a review of the status of the Bone Cave harvestman to determine whether delisting the species is warranted. To ensure that the status review is comprehensive, we are requesting scientific and commercial data and other information regarding the species. Based on the status review, we will issue a 12-month finding that will address whether or not delisting the Bone Cave harvestman is warranted, in accordance with the Act.

DATES: This finding was made on [**INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. As we commence work on the status review, we seek any new information concerning the status of, or threats to, the species or its habitat and relevant conservation

measures in place. We will consider any relevant information that we receive during our work on the status review.

ADDRESSES: *Supporting documents:* A summary of the basis for the petition finding is available on <http://www.regulations.gov> under docket number FWS–R2–ES–2017–0018. In addition, this supporting information is available for public inspection, by appointment, during normal business hours by contacting the person specified in **FOR FURTHER INFORMATION CONTACT.**

Submitting information: If you have new scientific or commercial data or other information concerning the status of, or threats to, the Bone Cave harvestman, please provide those data or information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter docket number FWS–R2–ES–2017–0018. Then, click on the “Search” button. After finding the correct document, you may submit information by clicking on “Comment Now!” If your information will fit in the provided comment box, please use this feature of <http://www.regulations.gov>, as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R2–ES–2017–0018, U.S. Fish and Wildlife Service, MS: JAO/1N, 5275 Leesburg Pike; Falls Church, VA 22041–3803.

We request that you send information only by the methods described above. We will post all information we receive on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us.

FOR FURTHER INFORMATION CONTACT: Adam Zerrenner, telephone: 505–761–4781, email: adam_zerrenner@fws.gov. If you use a telecommunications device for the deaf, please call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations in title 50 of the Code of Federal Regulations (50 CFR part 424) set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants (Lists) in 50 CFR part 17. Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to add a species to the Lists (i.e., “list” a species), remove a species from the Lists (i.e., “delist” a species), or change a listed species’ status from endangered to threatened or from threatened to endangered (i.e., “reclassify” a species) presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish the finding promptly in the *Federal Register*.

The Service and National Marine Fisheries Service revised the regulations at 50 CFR 424.14 to clarify the procedures under which the Services evaluate petitions effective October 27, 2016 (81 FR 66462; September 27, 2016). We originally received the petition that is the subject of this document on June 2, 2014, with supplemental information received on October 6, 2016. We therefore evaluated this petition under the 50 CFR 424.14 requirements that were in

effect prior to October 27, 2016, as those requirements applied when the petition and supplemental information were received. At that time, our standard for substantial scientific or commercial information within the Code of Federal Regulations (CFR) with regard to a 90- day petition finding was “that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted” (50 CFR 424.14(b)(1)).

A species may be determined to be an endangered species or a threatened species because of one or more of the five factors described in section 4(a)(1) of the Act (16 U.S.C. 1533(a)(1)).

The five factors are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range (Factor A);

(b) Overutilization for commercial, recreational, scientific, or educational purposes (Factor B);

(c) Disease or predation (Factor C);

(d) The inadequacy of existing regulatory mechanisms (Factor D); or

(e) Other natural or manmade factors affecting its continued existence (Factor E).

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species’ continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term “threat” to refer in general to actions or conditions that are known to, or are reasonably likely to, affect individuals of a species negatively. The term “threat” includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those

that affect individuals through alteration of their habitat or required resources (stressors). The term “threat” may encompass—either together or separately—the source of the action or condition or the action or condition itself. However, the mere identification of any threat(s) or amelioration of any threat(s) may not be sufficient to compel a finding that the information in the petition is substantial information indicating that the petitioned action may be warranted. For a petition to delist a species, the information presented in the petition must include evidence sufficient to suggest that these threats affecting the species may have been ameliorated to the point that the species may no longer meet the definition of an endangered species or threatened species under the Act.

If we find that a petition presents such information, our subsequent status review will evaluate all identified threats by considering the individual-, population-, and species-level effects and the expected response by the species. We will evaluate individual threats and their expected effects on the species, then analyze the cumulative effect of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that are expected to have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts that may ameliorate threats. It is only after conducting this cumulative analysis of threats and the actions that may ameliorate them, and the expected effect on the species now and in the foreseeable future, that we can determine whether the species meets the definition of an endangered species or threatened species under the Act (16 U.S.C. 1531 et seq.).

If we find that a petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, the Act requires that we promptly commence a review of the status of the species, and we will subsequently complete a status

review in accordance with our prioritization methodology for 12-month findings (81 FR 49248; July 27, 2016).

Summary of Finding

Species and Range

Bone Cave harvestman (*Texella reyesi*); Texas.

Petition History

On June 2, 2014, we received a petition dated June 2, 2014, from John Yearwood, Kathryn Heidemann, Charles and Cheryl Shell, the Walter Sidney Shell Management Trust, the American Stewards of Liberty, and Steven W. Carothers requesting that the endangered Bone Cave harvestman be delisted due to recovery and error in information. The petition clearly identified itself as a petition and included the requisite identification information for the petitioners, as required at that time at 50 CFR 424.14(a). We evaluated this petition under the 50 CFR 424.14 requirements that were in effect prior to October 27, 2016, as explained above under

Background.

On June 1, 2015, the Service published a 90-day finding in the *Federal Register* (80 FR 30990) that the petition did not present substantial scientific or commercial information indicating that the petitioned action was warranted. On December 15, 2015, the American Stewards of Liberty, Charles and Cheryl Shell, Walter Sidney Shell Management Trust, Kathryn Heidemann, and Robert V. Harrison, Sr., challenged the June 1, 2015, 90-day finding in Federal district court. The Service subsequently sought the court's permission to reconsider the 90-day finding after concluding that certain materials accompanying the petition were inadvertently not considered in the 2015 90-day finding. On December 22, 2016, the court granted the Service's request and ordered the Service to deliver a new 90-day finding to the *Federal Register* on or

before March 31, 2017. That deadline was subsequently extended to May 1, 2017. On May 4, 2017, the Service published a new 90-day finding in the *Federal Register* (82 FR 20861) that the petition did not present substantial scientific or commercial information indicating that the petitioned action was warranted.

On October 5, 2017, the American Stewards of Liberty, Charles and Cheryl Shell, Walter Sidney Shell Management Trust, Kathryn Heidemann, and Robert V. Harrison, Sr., challenged the May 4, 2017, 90-day finding in Federal district court. On March 28, 2019, the court vacated the 2017 90-day finding and remanded that 90-day finding to the Service for further consideration consistent with the court's opinion. This finding addresses the 2014 petition in light of the court's order.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating the petitioned action may be warranted for the Bone Cave harvestman due to potential reduction or amelioration of threats associated with development (Factor A) and predation (Factor C). The petition also presents substantial information that the existing regulatory mechanisms may be adequate to address impacts of these threats (Factor D).

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at <http://www.regulations.gov> under Docket No. FWS–R2–ES–2017–0018 under “Supporting Documents.”

Conclusion

On the basis of our evaluation of the information presented in the petition under section 4(b)(3)(A) of the Act, we have determined that the petition summarized above for the Bone Cave

harvestman presents substantial scientific or commercial information indicating that delisting the species may be warranted. Therefore, we are initiating a status review to determine whether delisting the species is warranted under the Act. At the conclusion of the status review, we will issue a finding, in accordance with section 4(b)(3)(B) of the Act, as to whether delisting the Bone Cave harvestman is not warranted, warranted, or warranted but precluded by pending proposals to determine whether any species is an endangered species or a threatened species.

Authors

The primary authors of this document are staff members of the Ecological Services Program, U.S. Fish and Wildlife Service.

Authority

The authority for these actions is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: September 9, 2019.

Margaret E. Everson
Principal Deputy Director,
U.S. Fish and Wildlife Service,
Exercising the Authority of the Director,
U.S. Fish and Wildlife Service.

Billing Code 4333-15

[FR Doc. 2019-22097 Filed: 10/9/2019 8:45 am; Publication Date: 10/10/2019]